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QUESTIONS OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING THE QUESTION OF HUMAN RIGHTS IN CYPRUS

Note by the Secretary-General

The Commission on Human Rights, in its decision 2001/102 of 25 April 2001, decided, without a vote, to retain on its agenda sub-item (*a*), entitled "Question of human rights in Cyprus", and to give it due priority at its fifty-eighth session. It was understood that action required by previous resolutions of the Commission on the subject (see resolution 1987/50, the most recent), would continue to remain operative, including the request to me to submit a report to the Commission regarding their implementation. The attached report, submitted pursuant to this decision, provides an overview of human rights concerns in Cyprus, to the extent of the current ability of the Office of the High Commissioner for Human Rights to assess them. The report covers the period from 30 November 2000 to 16 January 2002.

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Report submitted pursuant to Commission on Human Rights decision 2001/102

I. OVERVIEW

1. Cyprus remains divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP) separating the two sides and the political situation remaining unresolved. However, pursuant to his mission of good offices, the Secretary-General has continued his efforts towards a comprehensive settlement of the Cyprus problem and, following agreement reached between them on 4 December 2001, H.E. Mr. Glafcos Clerides and H.E. Mr. Rauf Denktash have begun direct talks in Cyprus in an effort to achieve a lasting settlement.

II. HUMAN RIGHTS CONCERNS

2. Human rights concerns regarding Cyprus stem largely from the division of the island along a ceasefire line and the current unresolved political situation. The division of the island has consequences for the enjoyment, on the whole of the island, of a number of human rights including freedom of movement and residence; property rights; freedom of religion; economic, social and cultural rights; and the human rights issues pertaining to the question of missing persons.

3. As noted in the past by several United Nations human rights treaty bodies, the division of Cyprus constitutes a serious obstacle to the enjoyment of human rights. It curtails the application and implementation of human rights protections on the island as a whole, and makes it difficult to assess the enjoyment of human rights by individuals living in the north of the island;[1]

4. Despite the announcement in 2000 by Turkish Cypriot authorities in the north of the island of the easing of certain restrictions on movement, it is reported that implementation of the new policies has been inconsistent. It is reported that government authorities tend to dissuade individuals from travelling to the north.

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[1] See, inter alia, concluding observations of the Committee on the Elimination of Racial Discrimination: Cyprus, adopted on 10 August 2001 (A/56/18, paras. 256-277); concluding observations of the Committee on Economic, Social and Cultural Rights: Cyprus, adopted on 3 December 1998 (E/1999/22-E/C.12/1998/26, paras. 273-299); concluding observations of the Human Rights Committee: Cyprus, adopted on 3 April 1998 (A/53/40, vol. I paras. 180-202); concluding observations of the Committee on the Rights of the Child: Cyprus, adopted on 7 June 1996 (A/53/41, paras. 223-254); concluding observations of the Committee on the Elimination of Discrimination against Women: Cyprus, adopted on 23 January 1996; (A/51/38, paras. 42-66); Decision 1 (59) on Cyprus, adopted by the Committee on the Elimination of Racial Discrimination on 10 August 2001 (A/56/18, para. 481).

5. An issue linked to freedom of movement is that of participation in intercommunal activities by members of both the Turkish Cypriot and Greek Cypriot communities. The number of meetings between Greek Cypriots and Turkish Cypriots across the buffer zone has reportedly decreased, as numerous planned events could not go ahead due to restrictions on Turkish Cypriots' participation imposed by authorities in the north of the island.

6. The autonomous, tripartite Committee on Missing Persons (CMP) is mandated by the General Assembly to investigate and determine the fate of all those who remain unaccounted for as a result of intercommunal violence in 1963 and the events of 1974 and afterwards. The CMP is composed of three members. The Greek Cypriot and Turkish Cypriot side each appoint a member. The Third Member is selected by the International Committee of the Red Cross with the agreement of both sides and appointed by the United Nations Secretary-General. Since January 2000 there has been no Third Member, but the First Assistant to the Third Member of the CMP has continued to work with the two sides to overcome obstacles and enable the CMP to achieve its aims. During the period under review, Mr. Clerides and Mr. Denktash addressed letters to the Secretary-General concerning specific proposals for the work of the CMP. During a dinner on 29 December 2001 and at a meeting on 11 January 2002, the two leaders discussed in particular the issue of missing persons and agreed to pursue the matter further in the course of the current year.

7. Since June 1999, the Government of Cyprus has conducted a unilateral programme of exhumation of gravesites in the south and identification of remains. The implementation of this programme has allowed a dozen of the cases before the CMP to be resolved

8. Greek Cypriots and Maronites in the north are reportedly unable to bequeath immovable property located in the north if their heirs are not residents in the north.

9. The annual religious and commemorative visits by Greek Cypriots to the Apostolos Andreas monastery in the north and by Turkish Cypriots to the Hala Sultan Tekke in the south and to Kokkina in the west, stalled since August 2000, have not resumed. In August 2001, the Greek Cypriot side announced their willingness to allow visits to the Hala Sultan Tekke but not to Kokkina, unless the Turkish Forces/Turkish Cypriot security forces complied with the relevant United Nations Security Council resolutions on Strovilia and restrictions on the movements of UNFICYP were lifted.

10. The economic situation in the north of the island is bleak. It is claimed that Turkish businesses have had to close down owing to the boycott and confiscation of goods from their Greek Cypriot clients. In this connection, however, on 19 December 2001, the Attorney-General stated that "trade with the occupied areas is not illegal but is permitted, except where there are problems such as health concerns".

11. On 10 May 2001, in the case of *Cyprus v. Turkey*, the European Court of Human Rights found Turkey to have violated 14 articles of the European Convention on Human Rights in relation to a range of issues, including the rights of Greek Cypriot missing persons and their relatives; the rights of displaced Greek Cypriots to return to their homes and properties in northern Cyprus; and the rights to freedom of religion and expression of Greek Cypriots living in the north.

12. On 23 May 2001, in the case of *Denizci and Others v. Cyprus*, the European Court of Human Rights found the Government of Cyprus to have violated the European Convention on Human Rights in relation to the prohibition of inhumane treatment, and to the rights to liberty, security and freedom of movement, of the applicants, a group of Turkish Cypriots living in the south. The Court awarded the applicants just satisfaction for non-pecuniary damage.

13. On 26 June 2001, the Committee of Ministers of the Council of Europe adopted an interim resolution deploring the fact that Turkey had not yet complied with its obligations in the case of *Loizidou v. Turkey*. In the judgement in that case, issued in December 1996, the European Court of Human Rights found that Turkey had breached the property rights of a Cypriot national resident in Nicosia. The applicant owned property in northern Cyprus but had effectively lost all control over it, including the possibilities of use and enjoyment, because of the authorities' denial of access. On 28 July 1998, the Court decided that Turkey should award just compensation to the applicant.

14. It should be stressed that the human rights situation in Cyprus would be transformed by the achievement of a comprehensive settlement.